

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 57 be amended to read as follows:

- 1 Page 244, between lines 20 and 21, begin a new paragraph and
- 2 insert:
- 3 **"Chapter 3.1. Occupying Claimant**
- 4 **Sec. 1. If an occupant of real property:**
- 5 **(1) has color of title to the property;**
- 6 **(2) in good faith has made valuable improvements to the**
- 7 **property; and**
- 8 **(3) after making improvements to the property is found, in a**
- 9 **court action, not to be the rightful owner of the property;**
- 10 **an order may not be issued to give the plaintiff possession of the**
- 11 **property until a complaint that meets the requirements of section**
- 12 **2 of this chapter has been filed and the provisions of this chapter**
- 13 **are complied with.**
- 14 **Sec. 2. The complaint must:**
- 15 **(1) set forth the grounds on which the defendant seeks relief;**
- 16 **and**
- 17 **(2) state, as accurately as practicable, the value of the**
- 18 **improvements on the real property and the value of the**
- 19 **property without the improvements.**
- 20 **Sec. 3. All issues under this chapter joined together must be**
- 21 **tried as in other cases, and the court or jury trying the cause shall**
- 22 **assess the following:**
- 23 **(1) The value of all lasting improvements made on the real**
- 24 **property in question before the commencement of the action**

1 for the recovery of the property.

2 (2) The damages, if any, which the premises may have
3 sustained by waste or cultivation through the time the court
4 renders a judgment.

5 (3) The fair value of the rents and profits that may have
6 accrued, without the improvements, through the time the
7 court renders a judgment.

8 (4) The value of the real property that the successful claimant
9 has in the premises, without the improvements.

10 (5) The taxes, with interest, paid by the defendant and by
11 those under whose title to the property the defendant claims.

12 **Sec. 4.** The plaintiff in the main action for possession of the real
13 property may pay the appraised value of the improvements to the
14 real property, and the taxes paid, with interest, deducting the value
15 of the rents and profits, and the damages sustained, as assessed at
16 the trial, and take the property.

17 **Sec. 5.** If a plaintiff fails to pay the defendant the value of the
18 improvements to the real property established under section 4 of
19 this chapter after a reasonable time fixed by the court, the
20 defendant may take the property after paying the plaintiff the
21 appraised value of the property, minus the value of the
22 improvements.

23 **Sec. 6.** If the plaintiff does not pay the defendant the appraised
24 value of the improvements to the real property under section 4 of
25 this chapter and the defendant does not pay the plaintiff the
26 appraised value of the real property under section 5 of this chapter
27 within the time fixed by the court, the parties will be held to be
28 tenants in common of all the real property, including the
29 improvements, each holding an interest proportionate to the value
30 of the party's property as determined under section 5 of this
31 chapter.

32 **Sec. 7.** Except when the purchaser knows at the time of the sale
33 that the seller lacks authority to sell the property, a purchaser who
34 in good faith, at a judicial or tax sale, purchases property that is
35 sold by the proper person or officer has color of title within the
36 meaning of this chapter, whether or not the person or officer had
37 sufficient authority to sell the property. The rights of the purchaser
38 acquired under this section pass to the purchaser's assignees or
39 representatives.

40 **Sec. 8.** An occupant of real property has color of title within the
41 meaning of this chapter if the occupant:

42 (1) can show a connected title in law or equity, derived from
43 the records of any public office; or

44 (2) holds the property by purchase or descent from a person
45 claiming title derived from public records or by a properly
46 recorded deed.

47 **Sec. 9. (a)** A claimant occupying real property who has color of

1 title may recover the value of lasting improvements to the real
 2 property made by the party under whom the claimant claims, as
 3 well as those improvements made by the occupying claimant.

4 (b) A person holding the premises as a purchaser, by an
 5 agreement in writing from the party having color of title, is entitled
 6 to the remedy set forth in subsection (a).

7 **Sec. 10.** A plaintiff in an action for possession of real property
 8 to which this chapter applies is entitled to an execution for the
 9 possession of the real property in accordance with this chapter, but
 10 not otherwise.

11 **Sec. 11.** If any land is sold by an executor, an administrator, a
 12 guardian, a sheriff, or a commissioner of the court and afterwards
 13 the land is recovered in the proper action by:

- 14 (1) a person who was originally liable;
- 15 (2) a person in whose hands the land would be liable to pay
- 16 the demand or judgment for which or for whose benefit the
- 17 land was sold; or
- 18 (3) anyone making a claim under a person identified under
- 19 subdivision (1) or (2);

20 the plaintiff is not entitled to a writ for the possession of the land
 21 without having paid the amount due, as determined under section
 22 12 of this chapter (or IC 34-1-49-12 or IC 32-15-3-12 before their
 23 repeal) within the time determined by the court.

24 **Sec. 12.** Any defendant in the main court action for possession
 25 of real property may file a complaint setting forth the sale and title
 26 under it and any other matter allowed under this chapter. The
 27 court proceedings must assess the values, damages, and other
 28 amounts of which assessment is required under section 3 of this
 29 chapter. If after the main court action the plaintiff has not paid the
 30 amount assessed by the court, the court shall set a reasonable time
 31 for the plaintiff to pay the defendant. If the plaintiff does not pay
 32 the amount within the time set by the court, the court shall order
 33 the land sold without relief from valuation or appraisement laws.
 34 If the premises are sold, the defendant is entitled to receive from
 35 the proceeds of the sale the amount the defendant is due, with
 36 interest, and court costs. The plaintiff is entitled to the remainder
 37 of the proceeds of the sale."

(Reference is to ESB 57 as printed February 22, 2002.)

Representative Kuzman